

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HP Tuners LLC)
)
Plaintiff,)
)
v.) Case No. 18-cv-2063
)
Worldly Exhibits)
)
Defendant.)

MOTION FOR DEFAULT JUDGMENT

Plaintiff, HP Tuners LLC (“HPT”), by and through its attorney, Michele J. Braun, and pursuant to Fed. R. Civ. P. 55, respectfully moves this Court to enter a default judgment in its favor and against the Defendant, Worldly Exhibits (the “Defendant”) in the amounts specified below. In support of this motion, HPT states the following:

1. On March 22, 2018, HPT filed the instant complaint against the Defendant, with count I alleging breach of contract, count II alleging fraud in the inducement, counts III and IV alleging violations of the Illinois Consumer Fraud and the Deceptive Business Practices Act, 815 ILCS 505/1 et. seq. and count V alleging breach of implied warranty of fitness for a particular purpose.
2. On March 28, 2018, the Defendant was properly served with the complaint, summons, Notice of Mandatory Initial Discovery and Standing Order.
3. The summons clearly stated that a judgment by default will be entered if the Defendant failed to file an answer to the complaint within 21 days after service of the summons.
4. On April 11, 2018, the Defendant filed an informal letter with this Court in lieu of filing an answer to the material allegations in the complaint.

5. Defendant's letter does not comply with the general rules for pleading an answer to a complaint, as set forth in Fed. R. Civ. P. 8(a)-(d).

6. To date, the Defendant has failed to file an answer to the material allegations in the complaint in accordance with Fed. R. Civ. P. 8(a)-(d) and is therefore in default.

7. Pursuant to Fed. R. Civ. P. 55, HPT respectfully requests that a default judgment be entered against the Defendant in the amount of \$94,641.71, plus costs in the amount of \$488.00.

8. Attached hereto and incorporated herein are HPT's Prove-Up Affidavits and Attorney Affidavit. See Exhibit A and Group Exhibit B.

9. HPT is also entitled to an award of its attorney fees and punitive damages in its favor and against the Defendant pursuant to the provisions of the Illinois Consumer Fraud and the Deceptive Business Practices Act, 815 ILCS 505/1 et. seq., for the reasons set forth in Counts III and IV of its complaint.

WHEREFORE, the Plaintiff, HP Tuners LLC, prays that this Court enters a default judgment in its favor and against the Defendant, Worldly Exhibits, in the amount of \$94,641.71, plus \$488.00 in costs and for any further relief that this Court deems just and proper.

Dated: April 30, 2018

HP Tuners, LLC

By: /s/ Michele J. Braun
One of Its Attorneys

Michele J. Braun
Law Offices of Michele J. Braun
1906 Maplewood Rd.
Northbrook, IL 60062
847-559-8406
Michele @mjbraunlaw.com
ARDC no. 6187398

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HP Tuners LLC)
)
Plaintiff,)
)
v.) Case No. 18-cv-2063
)
Worldly Exhibits)
)
Defendant.)

AFFIDAVIT

I, Michele J. Braun, an attorney, being duly sworn under oath and under penalty of perjury, depose and states as follows:

1. That I am the attorney representing the Plaintiff, HP Tuners LLC, in the above-captioned matter.
2. That the allegations set forth in the attached motion are true and correct.
3. To date, Plaintiff has incurred \$488.00 in necessary costs to prosecute this case.

This includes the \$400.00 fee for filing the complaint and \$88.00 fee for serving the summons and complaint. See Exhibit 1.

Further affiant sayeth not.

I, the undersigned, declare under penalty of perjury under the laws of the United States of America that the statements set forth in the foregoing instrument and this Affidavit are true and correct.

Dated: April 30, 2018

By: /s/ Michele J. Braun
One of Its Attorneys

Michele J. Braun
Law Offices of Michele J. Braun
1906 Maplewood Rd.
Northbrook, IL 60062
847-559-8406

Michele @mjbraunlaw.com
ARDC no. 6187398

EXHIBIT 1

Case: 1:18-cv-02063 Document #: 9 Filed: 04/30/18 Page 7 of 24 PageID #:80
Pay.gov Payment Confirmation: ILND CM ECF

notification@pay.gov

Wed 3/21/2018 5:21 PM

To: Michele Braun <michele@mjbraunlaw.com>;

Your payment has been submitted to Pay.gov and the details are below. If you have any questions or you wish to cancel this payment, please contact ILND CM ECF Help Desk at 312-582-8727.

Application Name: ILND CM ECF

Pay.gov Tracking ID: 268ILH7D

Agency Tracking ID: 0752-14263170

Transaction Type: Sale

Transaction Date: Mar 21, 2018 6:21:36 PM

Account Holder Name: Michele Braun

Transaction Amount: \$400.00

Card Type: Visa

Card Number: ****-****-****-6

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.

GROUP EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HP Tuners LLC)
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Plaintiff,)
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v.) Case No. 18-cv-2063
)
Worldly Exhibits)
)
Defendant.)

AFFIDAVIT OF NADER RAYES

I, Nader Rayes, being duly sworn under oath and under penalty of perjury, depose and states as follows:

If sworn as a witness in the above-captioned matter, I could competently testify to the following facts:

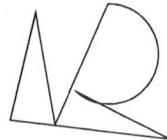
1. I am over the age of 18 and have personal knowledge of the matters set forth in this affidavit.
2. At all times relevant herein, I was, and still am, employed by the Plaintiff, HP Tuners LLC, as Brand Manager.
3. I have reviewed the complaint that was filed in this case.
4. I have personal knowledge of the facts alleged in paragraphs 1-19,21-44,47-53,56-63,68-71,73,78-81 and ,83- 87 of the complaint.
5. The facts alleged in paragraphs 1-19,21-44,47-53,56-63,68-71,73,78-81 and 83-87 of the complaint are true and correct.

Further Affiant sayeth not.

I, the undersigned, declare under penalty of perjury under the laws of the United States of America that the statements set forth in this Affidavit are true and correct.

Dated: April 25, 2018

By:

A handwritten signature consisting of stylized letters 'N' and 'R'.

Nader Rayes

Prepared by:

Michele J. Braun
Law Offices of Michele J. Braun
1906 Maplewood Rd.
Northbrook, IL 60062
847-559-8406
Michele @mjbraunlaw.com
ARDC no. 6187398

**IN THE UNITED STATES DISTRICT COURT
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Worldly Exhibits)
)
Defendant.)

AFFIDAVIT OF BOBBI MUNSON

I, Bobbi Munson, being duly sworn under oath and under penalty of perjury, depose and states as follows:

If sworn as a witness in the above-captioned matter, I could competently testify to the following facts:

1. I am over the age of 18 and have personal knowledge of the matters set forth in this affidavit.
2. At all times relevant herein, I was, and still am, employed by the Plaintiff, HP Tuners LLC, as Director of Operations.
3. I have reviewed the complaint filed in this case.
4. I have personal knowledge of the facts alleged in paragraphs 1, 15, 19, 30, 32, 45, 47, 50, 51(j), 53, and 69 of the complaint
5. The facts alleged in paragraphs 1, 15, 19, 30-32, 45, 47, 50, 51(j), 53, and 69 of the complaint are true and correct.
6. HP Tuners LLC suffered \$94,641.71 in monetary damages as a result of the Defendant's wrongful conduct. This figure includes:

- a. \$43,768.35 - the purchase price paid to Worldly Exhibits in full prior to fabrication and ordering of materials (*see* Complaint, Exhibits C and G);
- b. \$12,979.10 - paid to Worldly Exhibits on 10/27/17 for the add-on items that were never discussed/quoted (*see* Complaint, Exhibits F and G);
- c. \$30,509.87 - paid to Freeman (*see* Complaint, Exhibit G);
- d. \$1,604.35 - rental car fee (*see* Complaint, Exhibit G);
- e. \$580.04 - paid to Home Depot for tools used to build/set-up the exhibit (*see* Complaint, Exhibit G); and
- f. \$5,200.00 - for the man-hours provided by HPT employees in excess of the total hours planned (*see* Exhibit 1 and Complaint, Exhibit G).

Further Affiant sayeth not.

I, the undersigned, declare under penalty of perjury under the laws of the United States of America that the statements set forth in this Affidavit are true and correct.

Dated: April 25, 2018

By: Bobbi Munson
Bobbi Munson

Prepared by:

Michele J. Braun
Law Offices of Michele J. Braun
1906 Maplewood Rd.
Northbrook, IL 60062
847-559-8406
Michele @mjbraunlaw.com
ARDC no. 6187398

EXHIBIT 1

- Booth Tracking

First Name	Last Name	Title	Arrival
Andrew	Mernone	Director of Marketing	Friday, October 27, 2017
Bobbi	Munson	Director of Operations	Monday, October 30, 2017
David	Arenberg	CFO	Wednesday, November 1, 2017
Evan	Light	Marketing	Saturday, October 28, 2017
Gideon	Bailey	Sales	Monday, October 30, 2017
Ion	Salton	Director of Engineering	Tuesday, October 31, 2017
Jan	Moeller	Sales	Sunday, October 29, 2017
Jay	Payson	Director of Sales	Sunday, October 29, 2017
Jim	Ferraro	Sales	Monday, October 30, 2017
Mark	Laurishke	Engineering	Sunday, October 29, 2017
Mark	Steele	Engineering	Monday, October 30, 2017
Nader	Rayes	Marketing	Friday, October 27, 2017
Paul	Cato	Sales	Sunday, October 29, 2017
Weston	Pawlowski	Engineering	Monday, October 30, 2017

SEMA Las Vegas - Booth Tracking

Departure	Rates	Planned Hours	Planned Cost	SETUP	
					Actual Hours
Monday, November 6, 2017	\$ 50.00	8	\$ 400.00		28
Friday, November 3, 2017	\$ 50.00				
Friday, November 3, 2017	\$ 50.00				
Saturday, November 4, 2017	\$ 50.00				
Friday, November 3, 2017	\$ 50.00				
Friday, November 3, 2017	\$ 50.00	0	\$ -		12
Saturday, November 4, 2017	\$ 50.00				
Saturday, November 4, 2017	\$ 50.00				
Wednesday, October 4, 2017	\$ 50.00	4	\$ 200.00		12
Saturday, November 4, 2017	\$ 50.00	0	\$ -		8
Monday, November 6, 2017	\$ 50.00	8	\$ 400.00		28
Saturday, November 4, 2017	\$ 50.00	0	\$ -		12
Friday, November 3, 2017	\$ 50.00	1	\$ 50.00		3
Totals		21	\$ 1,050.00		103

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Defendant.)

AFFIDAVIT OF ANDREW MERNONE

I, Andrew Mernone, being duly sworn under oath and under penalty of perjury, depose and states as follows:

If sworn as a witness in the above-captioned matter, I could competently testify to the following facts:

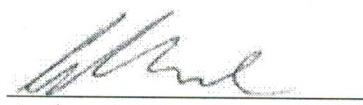
1. I am over the age of 18 and have personal knowledge of the matters set forth in this affidavit.
2. At all times relevant herein, I was, and still am, employed by the Plaintiff, HP Tuners LLC, as Director of Marketing.
3. I have reviewed the complaint filed in this case and the emails referenced therein.
4. I have personal knowledge of the facts alleged in paragraphs 1-2, 10-20, 22-24, 27-45, 47-53, 55, 56, 68-69, 71-73-74, 78, and 80-87 of the complaint.
5. The facts alleged in paragraphs 1-2, 10-20, 22-24, 27-45, 47-53, 55, 56, 68-69, 71-73-74, 78, and 80-87 of the complaint are true and correct.
6. HP Tuners LLC suffered \$94,641.71 in monetary damages as a result of the Defendant's wrongful conduct. This figure includes:

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- f. \$5,200.00 - for the man-hours provided by HPT employees in excess of the total hours planned (*see* Exhibit 1, attached hereto and Complaint, Exhibit G).

Further affiant sayeth not.

I, the undersigned, declare under penalty of perjury under the laws of the United States of America that the statements set forth in this Affidavit are true and correct.

Dated: April 25, 2018.

By: 
Andrew Mernone

Prepared by:

Michele J. Braun
Law Offices of Michele J. Braun
1906 Maplewood Rd.
Northbrook, IL 60062
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Friday, November 3, 2017	\$ 50.00	1	\$ 50.00		3
Totals		21	\$ 1,050.00		103

PACKUP					
Actual Cost	Planned Hours	Planned Cost	Actual Hours	Actual Cost	
\$ 1,400.00	8	\$ 400.00	14	\$ 700.00	
	0	\$ -	2	\$ 100.00	
\$ 600.00	2	\$ 100.00	4	\$ 200.00	
	0	\$ -	2	\$ 100.00	
\$ 600.00					
\$ 400.00	1	\$ 50.00	2	\$ 100.00	
\$ 1,400.00	8	\$ 400.00	14	\$ 700.00	
\$ 600.00	0	\$ -	2	\$ 100.00	
\$ 150.00	1	\$ 50.00	2	\$ 100.00	
\$ 5,150.00	20	\$ 1,000.00	42	\$ 2,100.00	
			Hours	Cost	
Total Planned			41	\$ 2,050.00	
Total Actual			145	\$ 7,250.00	
Overage				\$ 5,200.00	